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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.               | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------------------|------------------|
| 10/015,353  | 12/11/2001  | R. Terry K. Baker    | 1.902.16                          | 8422             |
| 7590 05/20/2004   |             |                      |                                   |                  |
| HENRY E. NAYLOR<br>KEAN, MILLER, HAWTHORNE, D'ARMOND MCCOWAN JAMANLL<br>P.O. BOX 3513<br>BATON ROUGE, LA 70821-3513 |             |                      | EXAMINER<br>HENDRICKSON, STUART L |                  |
|   |             |                      | ART UNIT<br>1754                  | PAPER NUMBER     |

DATE MAILED: 05/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10615353

Applicant(s)

Baker

Examiner

Hendicksan

Group Art Unit

119

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

### Status

- ☒ Responsive to communication(s) filed on 2/13/04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1,3-8, 10-14 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☒ Claim(s) 1,3-7, 11, 12 is/are allowed.
- ☒ Claim(s) 8, 10, 13, 14 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Part of Paper No. \_\_\_\_\_

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8, 10, 13, 14 are rejected under 35 U.S.C. 103(a) as obvious over Moy et al. 6143689 in view of Rodriguez '951.

Moy teaches in column 6 and 11 making carbon nanotubes from CO and Fe on Mg. Moy does not exemplify using H<sub>2</sub> and CO, but choosing them together is an obvious expedient to optimize fiber formation by suppressing graphite, as hydrogen is well known to do in nanotube synthesis.

Moy does not teach Co, however Rodriguez does as an equivalent to Fe in column 5, in a similar process. Using Co as a catalyst in the Moy process is an obvious expedient to gain its catalytic effect. When the Co is used, the claimed fibers are deemed to be formed.

Applicant's arguments filed 2/13/04 have been fully considered but they are not persuasive.

The arguments as to Fe overlook the fact that the references make fibers, and are not concerned with the shape. Thus, one reading the references would be motivated to use Co for Fe, particularly noting the fact that when applicant filed the application, Fe was considered to be equivalent to Co.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1754

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number 571-272-1351.

A handwritten signature in black ink, appearing to read 'Stuart Hendrickson', is positioned above the printed name.

Stuart Hendrickson  
examiner Art Unit 1754